(1)

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

Record No.: 06-411 AUG 2 - 2006

OFFICE OF THE CLERK

VICTOR A. MOTLEY,
Petitioner,

v.

COMMONWEALTH OF VIRGINIA
ex rel. VIRGINIA STATE BAR
and
SUPREME COURT OF VIRGINIA;

CONSOLIDATED BANK & TRUST CO.;

INTEGON INDEMNITY INSURANCE CO,
Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO

THE SUPREME COURT OF VIRGINIA

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether Consolidated Bank & Trust, Co. at the oral request of the Virginia State Bar violated petitioner's civil rights as prescribed by the U.S. Constitution, Amend. IV and when Code of Virginia, Sec. 19.2-59 creates a civil cause of action for such violation?
2. Whether Integon Indemnity Insurance Co. had a right to use as authority an Order of the Supreme Court of Virginia affirming an Order of the Virginia State Bar Disciplinary Board as proof that petitioner has committed a misdemeanor when petitioner has not been indicted, arraigned, tried nor convicted of a misdemeanor, which violated petitioner's civil rights as prescribed by the U.S. Constitution, Amend's. V & XIV?
3. Whether the Supreme Court of Virginia erred when it refused to Grant petitioner's Appeal of U.S. Constitutional issues in Supreme Court of Virginia,

Record No's: 051773 and 051772, when the Trial Judge said, "I don't answer to the Federal District Court..." in violation of the U.S. Constitution, Art. VI, Supremacy Clause and Petitioners U.S. Constitution, Amend's. IV, V, & XIV Rights?

4. Whether the Administrative hearings of the Supreme Court of Virginia affirming the findings of the Virginia State Bar were adjudications without jurisdiction?

5. Whether the Rules of Supreme Court of Virginia, Part 6, which can deprive a person of Life, Liberty and Property without Due Process and Equal Protection as prescribed by the U.S. Constitution, Amend's. V and XIV is a controlling tactic that operates as a Badge and Incident of Slavery in violation of the U.S. Constitution, Amend. XIII?

6. Whether the intertwinement between State and Federal Bar Licensure and the affect of State Procedure on the attorney's right to practice law federally and citizens of foreign states right to access

to legal counsel, if procedurally unconstitutional, violates the Interstate Commerce Clause of the U.S. Constitution, Art. I, Sec. 8?

PARTIES TO THE PROCEEDING and RULE 29.6 STATEMENT

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Peter R. Messitt, Senior Assistant Attorney General
Represents: Commonwealth of Virginia
Virginia State Bar

Rondelle D. Herman of Harrell & Chambliss, LLP.
Represents: Consolidated Bank & Trust Co.

Theodore I. Brenner of Brenner, Evans & Millman, P.C.
Represents: Integon Indemnity Insurance Co.
Meg Scholl

Petitioner is an individual with no corporate disclosures.

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OPINIONS BELOW

1. Supreme Court of Virginia, Record No.: 051772

   The Order of the Circuit Court of the City of Richmond, VA sustaining defendant's Demurrer. (App., infra., A1)

   The Order of the Supreme Court of Virginia refusing the Petition. (App., infra., A2)

   The Order of the Supreme Court of Virginia denying to grant a Rehearing. (App., infra., A2)

2. Supreme Court of Virginia, Record No.: 051773

   The Order of the Circuit Court of the City of Richmond, VA granting a Non-Suit and subsequently awarding sanctions. (App., infra., A3)

   The Order of the Supreme Court of Virginia refusing the Petition. (App., infra., A5)

   The Order of the Supreme Court of Virginia denying to grant a Rehearing. (App., infra., A5)

JURISDICTION

a. Supreme Court of Virginia, Record No.: 051772:

The Supreme Court of Virginia refused the petition for appeal on Dec. 21, 2005.

The Supreme Court of Virginia refused to grant a rehearing on March 9, 2006

The Supreme Court of the United States extended the time to petition for writ of certiorari to Aug.6, 2006 in Application No. 05A1124.

Jurisdiction in this action is to redetermine whether the Supreme Court of Virginia violated petitioners U.S. Constitution, Amend. IV, & XIV Rights, and now Petitioner seeks relief from this Court, asking that the Court clarify whether the Administrative findings of the Commonwealth of Virginia are subordinate to, and violate the U.S. Constitution.

b. Supreme Court of Virginia, Record No.: 051773

The Supreme Court of Virginia refused the petition for appeal on Dec. 21, 2005.

The Supreme Court of Virginia refused to grant a

rehearing on March 9, 2006.

The Supreme Court of the United States extended the time to petition for writ of certiorari to Aug. 6, 2006 in Application No. 05A1124.

Jurisdiction in this action is to redetermine whether the Supreme Court of Virginia violated petitioners U.S. Constitution, Amend. V & XIV Rights, and now Petitioner seeks relief from this Court, asking that the Court clarify whether the Administrative findings of the Commonwealth of Virginia are subordinate to, and violate the U.S. Constitution.

c. Jurisdiction of this action is to determine whether pursuant to the Supremacy clause the Virginia State Bar procedure is subordinate to petitioner's U.S. Constitutional guarantees?

d. Jurisdiction of this action is to determine whether the Commonwealth of Virginia with the intertwinement of State and Federal Bar Licensure, federal employment and Petitioner's U.S. Constitutional Rights, is violating the Interstate Commerce Clause.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. U.S. Constitution, Art. I, Sec. 8: Intertwinement of State and Federal Bar Licensure and State Procedure with respect to the Interstate Commerce Clause.
2. U.S. Constitution, Amend. IV: Security from Unwarrantable Search and Seizure.
3. U.S. Constitution, Amend. V: Right to Due Process of Law.
4. U.S. Constitution, Amend. XIV: Citizenship Rights, Due Process and Equal Protection.
5. U.S. Constitution, Amend. XIII: State Deprivation of Constitutional Rights as a Badge of Slavery.

STATEMENT OF THE CASE

I. Consolidated Bank & Trust Co:

The Virginia State Bar, WITHOUT NOTICE to petitioner, issues a subpoena duces tecum for the Escrow Account Records of petitioner from Consolidated Bank & Trust Co.

Consolidated Bank & Trust Co., pursuant to the subpoena duces tecum and upon an Oral Amendment, WITHOUT NOTICE to petitioner, enlarged the scope of the subpoena from inquiry into one deposit to a inquiry into all deposits and from one year to two years of documents.

The Supreme Court of Virginia affirmed the Order of the Richmond Circuit Court that Petitioner had not stated a cause of action when Code of Virginia, Sec. 19.2-59 creates a cause of action for Warrantless Search.

Constitutionality of the subpoena duces tecum is at issue.

II. Integon Indemnity Insurance Co:

Integon Indemnity Insurance Co, by Meg Scholl recorded a phone call between themselves and petitioner, without notice to petitioner and forwarded it to the Virginia State Bar.

The Commonwealth of Virginia never indicted, charged, tried nor convicted petitioner with respect

to the recorded phone conversation.

Petitioner filed a civil suit against Integon Indemnity Insurance Co. for "setting on foot" the malicious prosecution of petitioner.

Integon Indemnity Insurance Co., in defense of itself, produced an Order of the Supreme Court of Virginia affirming an Order of the Virginia State Bar which found that petitioner had engaged in the unauthorized practice of law, a misdemeanor.

Petitioner has no State Criminal Record for the unauthorized practice of law.

III. Commonwealth of Virginia:

The Richmond Circuit Court and the Supreme Court of Virginia defended the action of the Virginia State Bar in issuing the subpoena duces tecum and oral amendment without notice to petitioner and defended the findings of the Richmond Circuit Court and the Supreme Court of Virginia in finding that petitioner had committed a misdemeanor when petitioner has not

been indicted, charged, tried nor convicted of a misdemeanor; without consideration of petitioners U.S. Constitutional Rights.

The Procedure by which the Commonwealth of Virginia made these findings is at issue and whether The Commonwealth of Virginia's denial of U.S. Constitutional Rights operates as a "Badge And Incident of Slavery"; and whether the Virginia State Bar Disciplinary Procedure violates the Interstate Commerce Clause?

SUMMARY OF THE REASONS FOR GRANTING THE PETITION

Petitioner has set forth Compelling Reasons for Granting of this Writ of Certiorari in that the Supreme Court of Virginia, has entered a decision, Refused to hear an appeal, which is in conflict with The U.S. Constitution as follows:

1. Whether the Commonwealth's Procedure for issuance of a subpoena duces tecum and oral amendment without NOTICE to petitioner

violated the U.S. Constitution, Amend. IV, Security from Unwarrantable Search and Seizure, is at issue.

2. Whether the Commonwealth's Procedure of reliance on the Administrative findings of the Virginia State Bar and Supreme Court of Virginia that Petitioner had committed a misdemeanor, violated petitioners U.S. Constitution Amend's. V & XIV Rights, is at issue.

3. The U.S. Constitution is the Supreme Law of the land, not Commonwealth of Virginia Procedure. Without review of Commonwealth of Virginia Procedure, petitioner's U.S. Constitutional guarantees are subordinate to States Rights.

4. Whether the Virginia State Bar Disciplinary Procedure's effect on an attorney's right to Practice federally and in other states, violates the Interstate Commerce Clause?

REASONS FOR GRANTING THE PETITION

PETITIONER HAS SET FORTH
COMPELLING REASONS FOR THE
GRANTING OF THIS WRIT OF CERTIORARI:

A. WHETHER THE TRIAL COURT ERRED IN SUSTAINING DEFENDANT'S DEMURRER STATING, "PLAINTIFF HAS FAILED TO STATE A CAUSE OF ACTION", WHEN A SUBPOENA DUCES TECUM WAS ISSUED AND ORALLY AMENDED WITHOUT NOTICE TO PETITIONER IN VIOLATION OF THE U.S. CONSTITUTION, AMEND. IV & XIV, VIOLATED THE PROCEDURE AS PRESCRIBED BY THE RULES OF SUPREME COURT OF VIRGINIA, RULE 4:9 AND WHEN A CAUSE OF ACTION IS PRESCRIBED BY CODE OF VIRGINIA, SEC. 19.2-59?

RULE

The right of the people to be secure in their

persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated... U.S. Constitution, Amend. IV.

"No person shall...be deprived of life, liberty, or property without Due Process of law..." U.S. Constitution, Amend. XIV.

"Upon written request thereof filed with the clerk of the court in which the action or suit is pending by counsel of record...with a certificate that a copy thereof has been mailed... the clerk shall...issue to a person not a party therein a subpoena duces tecum..." Rules of Supreme Court of Virginia, Rule 4:9.

No officer of the law or any person shall search any place, thing or person, except by virtue of and under a warrant issued by a proper officer... Any officer or person violating the provisions of this section shall be liable to any person aggrieved thereby in both compensatory and punitive damages. Code of Virginia, Sec. 19.2-59.

FACTS

Consolidated Bank & Trust Co. pursuant to a purported Subpoena Duces Tecum and Oral Amendment provided the Commonwealth of Virginia with Escrow Account Bank Records of petitioner.

Said subpoena duces tecum was not issued by a Clerk of the Court nor contained a Certificate of Mailing to Petitioner.

The Commonwealth in a letter addressed to petitioner dated June 24, 2003 and in its Answer to Interrogatories, admits that the subpoena was

Orally Amended.

There exist no authority for the Commonwealth to Amend a Subpoena Duces Tecum Orally.

ARGUMENT

Said subpoena duces tecum was not issued in Compliance with the Rules of Supreme Court of Virginia, Rule 4:9.

WITHHOUT NOTICE of issuance of the Subpoena Duces Tecum nor Notice of the Oral Amendment, petitioner was DENIED his right to challenge the Warrant for reasonableness and probable cause as prescribed by the Constitution of Virginia, Art. I, Sec. 11 and the U.S. Constitution, Amend. IV and XIV.

Consolidated Bank & Trust Co. owed petitioner a DUTY of reasonable care in the handling of his bank accounts. Consolidated's inquiry into and furnishing of information of petitioner's bank account without proper authority was itself a warrantless search.

Code of Virginia, Sec. 19.2-59 creates a cause of action against anyone who searches any place, thing or person without a warrant issued by a proper officer.

The Commonwealth of Virginia erred in granting Consolidated Bank & Trust Co.'s Demurrer. Violation of a State Statute is negligence per se.

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CONCLUSION

Said acts of Consolidated Bank & Trust Co and the Commonwealth of Virginia were not in compliance with the Rules of Supreme Court of Virginia, Rule 4:9 and violated the Constitution of Virginia, Art. I, Sec.11, the U.S. Constitution, Amend's IV & XIV and were actionable by the Code of Virginia.

Said Civil Action Record No. 051772 should be REMANDED.

B. WHETHER THE COMMONWEALTH OF VIRGINIA ERRED IN AWARDING SANCTIONS, PURSUANT TO CODE OF VIRGINIA, Sec. 8.01 -271.1 AGAINST PETITIONER WHEN THE ORDER OF THE SUPREME COURT OF VIRGINIA AFFIRMING THE ADMINISTRATIVE FINDINGS OF THE VIRGINIA STATE BAR THAT PETITIONER COMMITTTED A MISDEMEANOR, WHEN PETITIONER HAS NOT BEEN ARRAIGNED, CHARGED, TRIED NOR CONVICTED OF A MISDEMEANOR AND HAS NO CRIMINAL RECORD?

RULE

The unauthorized practice of law is a misdemeanor. Code of Virginia, Sec. 54.1-3904.

U.S. Constitution, Amend. V states: "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury...nor shall be compelled to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law..."

The interception, disclosure of wire, electronic or oral communications unlawful. Code of Virginia, Sec. 19.2-62(A)

Violation of Code of Virginia, Sec. 19.2-62 creates a civil cause of action. Code of Virginia, Sec. 19.2-69

Code of Virginia, Sec. 8.01-271.1 allows for an award of sanctions when a action is not filed in good faith.

FACTS

Integon Indemnity Insurance Co. by Meg Scholl recorded a phone conversation of petitioner without petitioner's knowledge or consent, on or about June 18, 2001.

Integon Indemnity Insurance Co. transcribed and forwarded said phone conversation to the Commonwealth of Virginia.

The Commonwealth of Virginia after conducting an investigation into the Unauthorized Practice of Law, a misdemeanor; never indicted, charged nor tried petitioner for the Unauthorized Practice of Law.

In a civil suit against Integon Indemnity Insurance Co. and Meg Scholl, petitioner took his first Non-suit, but had sanctions awarded against him.

ANALYSIS

Integon Indemnity Insurance Co. and Meg Scholl "set on foot" the criminal prosecution of petitioner.

Petitioner has no Criminal Record and was never indicted nor charged for the alleged misdemeanor.

The Richmond Circuit Court relied on the Order of the Virginia Supreme Court affirming the administrative findings of theVirginia State Bar and awarded sanctions against petitioner.

Administrative findings are not findings by a court of competent jurisdiction. Victor A. Motley v. Virginia State Bar, Civil Action No. 3:01 CV 042 (USDC ED VA 2001)(App. P. 7)

Code of Virginia, Sec. 19.2-69 creates a civil cause of action against the Interception, disclosure of wire, electronic or oral communication.

An administrative finding is not a legal opinion as to whether a misdemeanor was committed and cannot be used as the basis for a legal conclusion that a misdemeanor was committed.

Such a conclusion violates petitioner's RIGHTS as prescribed by the U.S.Constitution, Amend's. V & XIV.

CONCLUSION

Administrative findings are not of legal authority and cannot be used as the basis of a legal conclusion, without an adjudication by a Court of Competent Jurisdiction.

Petitioner has no Criminal Record and had good cause to believe that he had not committed a misdemeanor and a civil action is authorized by statute.

The sanctions entered in favor of Integon Indemnity Insurance Co and Meg Scholl must be REVERSED.

C. WHETHER THE ADMINISTRATIVE HEARINGS OF THE SUPREME COURT OF VIRGINIA AFFIRMING THE FINDINGS OF THE VIRGINIA STATE BAR WERE ADJUDICATIONS WITHOUT JURISDICTION?

RULE

Constitution of Virginia, Art. VI, Sec. 1 Limits the jurisdiction of the Supreme Court of Virginia to cases of habeas corpus, mandamus and prohibition, in matters of censure, retirement, and removal under Section 10 of this Article, and to answer questions of state law certified by a court of the United States or the highest appellate court of any state. All other jurisdiction is appellate.

The Supreme Court shall, by virtue of this Constitution, have appellate jurisdiction in cases involving the Constitutionality of a law under this Constitution or the Constitution of the United States and in cases involving the life or liberty of any person. Constitution of Virginia, Art. VI, Sec. 1; Code of Virginia, Sec. 8.01-670

The Virginia General Assembly has not granted the Virginia State Bar authority to operate as a Court

of competent jurisdiction, all judges are appointed by the General Assembly. Constitution of Virginia, Art. VI, Sec. 1

Code of Virginia, Sec. 54.1-3910 states: "The Virginia State Bar shall act as an administrative agency of the court for the purpose of investigating and reporting violations".

Rules of Supreme Court of Virginia, Part 6 Organization & Government of the VSB, Sec. 10(h)(v)(2) specifically prescribes for prosecution of the Unauthorized Practice of Law by the Attorney General or Commonwealth Attorney.

Code of Virginia, Sec. 54.1-3935, Procedure for Revocation of License, contains jurisdictional requirements, none of which were met by the Virginia State Bar.

No state shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. U.S. Constitution, Amend. XIV

F ACTS

The Virginia General Assembly has not granted the Virginia State Bar authority to operate as a court.

The Virginia General Assembly has not granted the Supreme Court of Virginia general jurisdiction of Administrative Hearings.

A property right (Motley's Bar License) which is created and protected by law, an adjudication

regarding the creation, existence, or termination of that right can be made only by a court of competent jurisdiction. Holland v. Johnson, 241 VA 553, 403 SE2d 356 (1991)

Petitioner has had no hearing by a court of competent jurisdiction. Victor A. Motley v. Virginia State Bar, supra.

ARGUMENT

The action of the Virginia State Bar and Supreme Court of Virginia was without legal jurisdiction. The Constitution of Virginia, nor any statute gives the Virginia State Bar or Supreme Court of Virginia authority to act beyond the boundaries established by the Virginia General Assembly.

Said Rules of Supreme Court of Virginia, Part 6 and the Code of Virginia, Sec. 54.1-3915 grants jurisdiction of the courts but places restrictions on the jurisdiction and authority of the Supreme Court with respect to the method of procedure for the discipline of attorneys and prescribes adjudication by a court of competent jurisdiction, but provides no procedure.

The Order entered by the Virginia Supreme Court affirming an Order of the Virginia State Bar is not a conviction by a Court of competent jurisdiction. Victor A. Motley v. Virginia State Bar, supra.

The trial judge in reply to the U.S. Constitutional Issues raised by petitioner made the following statements:

(a). "I don't answer to the Federal District Court". (Trial transcript p. 23, line 25)

(b). "You're trying to have the Federal District Court make some determination about the constitutional authority of the Virginia Supreme

Court dealing with the Virginia Constitution, not the U.S. Constitution." "The (General) District court doesn't have one whits power to deal with that. That's not any part of their jurisdiction". (Trial transcript p. 26, line 10-18)

CONCLUSION

The Virginia Constitution and statutory limitations on jurisdiction as made by the Virginia General Assembly conferred no authority on the Virginia State Bar and Supreme Court of Virginia to make a legal ruling on the issues.

Without a hearing by a court of competent jurisdiction, no legal conclusions have been made affecting the "life, liberty and property" of petitioner.

Without a hearing by a court of competent jurisdiction, petitioner has been denied DUE PROCESS of Law.

D. WHETHER THE RULES OF SUPREME COURT OF VIRGINIA, PART 6 VIOLATES THE U.S.CONSTITUTION, 14TH AMENDMENT, DUE PROCESS AND EQUAL PROTECTION CLAUSE AND THE PRIVILEGES AND IMMUNITIES OF CITIZENS?

RULE

All persons born and naturalized in the United States... are citizens of the United States... No

state shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. U.S. Constitution, Amend. XIV

If application of the general rule deprives an individual of interest on "liberty" or "property", the individual must be afforded an appropriate hearing. Goldberg v. Kelly, 397 U.S. 254 (1970)

This Constitution, and the laws of the United States which shall be made in pursuance thereof shall be the supreme law of the land; and the judges in every state shall be bound thereby... the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution. U.S. Constitution, Art. VI

FACTS

Motley is a citizen of the United States whom happens to live in the State of Virginia, not a citizen of Virginian whom happens to live in the United States.

The U.S. Constitution is the Supreme Law of the Land to which all state legislatures, executives and judicial officers are bound by oath.

Motley, has alleged that the State of Virginia has made and is enforcing a process that has deprived him of the Privileges and Immunities shared by other U.S. citizens, has alleged that a

State of Virginia process is depriving him of "life, liberty and property" without affording him Due Process of Law and has alleged that a State of Virginia process is Depriving him of Equal Protection of the Laws and amounts to Cruel and Unusual Punishment, and said deprivations violate the U.S. Constitution.

ARGUMENT

State Procedure must be measured by the standards granted to all citizens as set forth in the Supreme law of the land, the U.S.Constitution.

CONCLUSION

When I became an attorney I took an oath to Uphold the laws of the United States and the Commonwealth of Virginia, now am I being denied the utilization and protection of the laws I took an oath to uphold?

Jurisdiction is being denied leaving petitioner with no adequate remedy at law to raise his Constitutional concerns of Virginia Procedure.

Jurisdiction is the foundation of the ability to raise procedural issues. To deny jurisdiction, is to deny Constitutional Review.

E. WHETHER THE VIRGINIA STATE BAR AND SUPREME COURT OF VIRGINIA'S ATTORNEY DISCIPLINARY PROCEDURE, RULES OF SUPREME COURT OF VIRGINIA, PART 6, WHICH

DEPRIVES A PERSON OF LIFE, LIBERTY AND PROPERTY WITHOUT DUE PROCESS EQUAL PROTECTION AS PRESCRIBED BY THE U.S. CONSTITUTION, AMENDMENTS V & XIV, BEFORE APPELLANT'S STATE ISSUED LICENSE IS SUSPENDED OR REVOKED, IS A CONTROLLING TACTIC THAT VIOLATES THE U.S. CONSTITUTION, AMENDMENT XIII AS A BADGE AND INCIDENT OF SLAVERY?

RULE:

> No person shall be held to answer for a capital, or otherwise infamous crime unless on a presentment or indictment of a grand jury... nor be deprived of life, liberty, or property, without due process of law... U.S. Constitution, Amend. V

> No State shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. U.S. Constitution, Amend. XIV

The denial of such accommodations and privileges is, in itself, a subjection to a species of servitude within the meaning of the U. S. Constitution, Amend. XIII

FACTS:

The Virginia State Bar and Supreme Court of Virginia have entered an Order and placed on the Internet that Motley has been found to have committed the Unauthorized Practice of Law, a misdemeanor, when Motley has never been charged, tried, indicted nor had a presentment served on him as required by the U.S. Constitution, Amend. V

Motley's License to practice law has been suspended and revoked without affording Motley a hearing by a court of competent jurisdiction. Victor A. Motley v. Virginia State Bar, supra.

Alcohol Beverage Commission Licensees are afforded an appeal to the Circuit Court when the Commission suspends their State License. Code of Virginia, Sec. 4.1-227

Before the State can attach a Virginia Income Tax Return, the attachee has the right to petition for Judicial Review in a court of competent jurisdiction. Code of Virginia, Sec. 58.1-527

Before a driver's license, which is a privilege and not a right, can be suspended or an offense placed on the driving record, the licensee is afforded a hearing in a court of competent jurisdiction.

Before an optometrist or dentist can be restrained/detained of his license, he/she has 30 days to appeal the decision of the Virginia Board of Optometry/Dentistry to a Circuit Court.

Even the foreign alleged terrorist in Guantanamo Bay, Cuba are entitled to a Due Process hearing.

A Virginia State Bar Licensee, an officer of the State and Federal Court, has no right to be heard by a court of competent jurisdiction before his State License is suspended, revoked or have charges of misconduct placed on his record, publicly available on the Internet, with no procedure for judicial recourse.

ANALYSIS

If appellant was tried criminally, in defense of himself, he would be entitled to a reading of his Miranda Rights, discovery, an arraignment, an appeal from the General District Court to a Court of Record, appeal to the Court of Appeals, appeal to the Supreme Court of Virginia, appeal to the U.S. Supreme Court, would be entitled to his U.S. Constitution, 5t^{h} Amendment Rights, be able to file a Writ of Habeas Corpus in the State and Federal Courts and be able to file for Declaratory Judgment in State and Federal Courts to verify that his Constitutional Rights were not violated.

Yet the Virginia State Bar can try petitioner for a crime, to be adjudged by a Committee not appointed by the Virginia General Assembly that has not taken an oath to uphold the laws of the United States and the Commonwealth, with

no right to discovery or other procedural method to challenge the evidence, not be entitled to Habeas Corpus review and be convicted on evidence not reviewable by U.S. Constitutional standards.

Failure to comply with State law amounts to a violation of an interest protected by the U.S. Constitution, Amend. XIV; Counts v. Newhart, 915 F. Supp. 579 (1996)

To deny Constitutional Rights is to CONTROL, a badge and incident of slavery, protected against by the U.S. Constitution, Amend. XIII

The Virginia State Bar and Supreme Court of Virginia, acting administratively, are not above the U.S. Constitution, the Supreme Law of the Land.

CONCLUSION

The District Court never addressed or gave a rational basis for why Virginia State Bar Licensees are treated differently from other State Licensees or criminal defendants.

Without U.S. Constitutional Guarantees, the Bill of Rights, as afforded other state licensees and citizens, leaves attorneys subject to arbitrary control, a Badge and Incident of Slavery.

F. WHETHER THE INTERTWINEMENT BETWEEN STATE BAR AND FEDERAL BAR LICENSURE AND THE AFFECT OF

STATE ACTION ON AN ATTORNEY'S ABILITY TO PRACTICE LAW FEDERALLY, THE FOREIGN CITIZENS RIGHT TO ACCESS TO LEGAL COUNSEL, AND THE EFFECT A DIVERSITY OF LEGAL MINDS BRING TO THE COURTS, SAID STATE ACTION VIOLATES THE U.S. CONSTITUTION, SAID STATE ACTION ALSO VIOLATES THE INTERSTATE COMMERCE CLAUSE, U.S. CONSTITUTION, ART. I, SEC. 8 AND WHETHER THE DISTRICT COURT WOULD/SHOULD TAKE JURISDICTION?

RULE

> The Congress shall have power to...regulate commerce with foreign nations, and among the several states.. U.S. Constitution, Art. I, Sec. 8

> All attorneys practicing law in Federal Agencies must be licensed by a State Bar, but not necessarily by the State where their office is located.

> A State Bar Disciplinary Procedure has a direct effect on a Bar Licensee to practice Federally, even if the attorney will be located in another State.

A Virginia State Bar Disciplinary Procedure Is having a direct effect on a U.S. citizen's access to legal counsel.

The Virginia State Bar is a State Agency intertwined with Federal Bar Licensure, not a private club.

FACTS

Motley still holds a U.S. Bar License. Motley has an Application pending for the Position of Federal Public Defender for the U.S. District Court for the Eastern District of Virginia, which this intertwinement between State and Federal Bar Licensure will not qualify him for.

State Licensure will adversely affect his right to "life, liberty and the pursuit of happiness" (a job) even though he will not be in State Court and is still licensed Federally.

Motley is also being denied the right to practice in the U.S. Bankruptcy Court, and is still licensed.

ANALYSIS

Bar Licensure is not purely a State issue. Without application of U.S. Constitutional Rights, a state has the power to affect which attorneys may practice Federally, control the issues and arguments that come before State and Federal Courts and limit U.S. citizens access to legal representation in interstate commerce matters. The Federal Courts have a long history of prohibiting violations of Civil Rights through the Interstate Commerce Clause. U.S. Constitution, Art. I, Sec. 8

CONCLUSION

The District Court never addressed the intertwinement of Federal and State Bar Licensure and its affect on Interstate Commerce, its affect on controlling which attorneys can practice law federally and on foreign citizens access to legal counsel, as such this action should be REMANDED to the U.S. District Court.

CONCLUSION

The Commonwealth of Virginia failed to measure the challenges to the WARRANTLESS SEARCH and purported CONVICTION by U.S. Constitutional standards, the Supreme Law of the land.

The Commonwealth of Virginia failed to measure the procedure for the discipline of attorneys by U. S. Constitutional standards, the Supreme Law of the land.

The intertwinement between State and Federal Bar licensure involves questions of exceptional importance that have not been addressed previously.

WHEREFORE, petitioner, Victor A. Motley, pro se, prays that this Petition for Writ of Certiorari be GRANTED.

Victor A. Motley, pro se
P.O. Box 25786
Richmond, VA 23260
(804)329-6972

APPENDIX

Consolidated Bank & Trust Co.

Richmond Circuit Court Order.....A1

Supreme Court of VA (Petition Denied).....A2

Supreme Court of VA (Rehearing Denied).....A2

Integon indemnity Ins. Co.

Richmond Circuit Court Order.....A3

Supreme Court of VA (Petition Denied).....A5

Supreme Court of VA (Rehearing Denied) A5

U.S. District Court ED VA

U.S. District Court Order
Victor A. Motley v. Virginia State Bar
3:01CV042 (USDC ED VA 2001).....A7

VIRGINIA:
IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

VICTOR A. MOTLEY,
Plaintiff,
v. Case No. LT-635-3

CONSOLIDATED BANK & TRUST CO.,
Defendant.

ORDER

The parties appeared for argument on the demurrer.

The court finds that the plaintiff has failed to state a cause of action against the bank.

The demurrer is sustained.

It is, therefore, ORDERED that the motion for judgment is dismissed without leave to amend.

Copies of this order are mailed this day to the plaintiff and counsel for the defendant.

ENTER 6-14-05

T.J. Markow, Judge

VIRGINIA:

IN THE SUPREME COURT OF VIRGINIA

Wednesday the 21st day of December, 2005

VICTOR A. MOTLEY,

Appellant,

v. Record No. 051772

CONSOLIDATED BANK & TRUST CO.,

Appellee

From the Circuit Court of the City of Richmond

Upon review of the record in this case and consideration of the argument submitted in support of and in opposition to the granting of an appeal, the Court is of the opinion there was no reversible error in the judgment complained of. Accordingly, the Court refuses the petition for appeal.

By:

Deputy Clerk

VIRGINIA:

IN THE SUPREME COURT OF VIRGINIA

Friday the 3rd day of February, 2006

VICTOR A. MOTLEY,

Appellant,

v. Record No. 051772

CONSOLIDATED BANK & TRUST CO,

Appellee.

Upon a Petition for Rehearing

On consideration of the petition of the

appellant to set aside the judgment rendered herein on the 21st day of December, 2005 and grant a rehearing thereof, the prayer of the said petition is denied.

By:
Deputy Clerk

VIRGINIA:
IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

VICTOR A. MOTLEY,
Plaintiff,
v. Case No. LT-634-1
GMAC INSURANCE CO
And
MEG SCHOLL,
Defendant.

ORDER

The parties came on the demurrer and argument was heard. Prior to a decision on the demurrer plaintiff moved for a non-suit. Prior to entering an order of non-suit the court has before it the issue of sanctions under VA Code, Sec. 8.01-271.1.

The court finds that an award of sanctions is required in this case.

Plaintiff's argument in support of the motion for judgment is totally without merit.

There is no objective basis supporting his motion for judgment.

Defendant's request that they be reimbursed for the attorney's fees incurred in defending the motion for judgment of $3,528.00 is granted.

It is, therefore, ORDERED the following

(1) defendants Integon Indemnity Ins. Co. and Meg Scholl are awarded judgment against the plaintiff, Victor A. Motley, for $3,528.00 plus interest thereon at the judgment rate until paid and, (2) This case is dismissed by non-suit.

Copies of this order are mailed this day to counsel of record.

ENTER 5-31-05
T.J. Markow, Judge

VIRGINIA:

IN THE SUPREME COURT OF VIRGINIA

Wednesday the 21st day of December, 2005

VICTOR A. MOTLEY,

Appellant,

v. Record No. 051773

INTEGON INDEMNITY INS. CO.

And

MEG SCHOLL,

Appellee.

From the Circuit Court of the City of Richmond

Upon review of the record in this case and consideration of the argument submitted in support of and in opposition to the granting of an appeal, the Court is of opinion there is no reversible error in the judgment complained of. Accordingly, the Court refuses the petition for appeal.

By

Deputy Clerk

VIRGINIA:

IN THE SUPREME COURT OF VIRGINIA

Thursday the 9th day of March, 2006

VICTOR A. MOTLEY,

Appellant,

v. Record No. 051773

INTEGON INDEMNITY INS. CO.

And

MEG SCHOLL,

Appellees.

Upon a Petition for Rehearing

On consideration of the petition of the appellant to set aside the judgment rendered herein on the 21st day of December, 2005 and grant a rehearing thereof, the prayer of the said petition is denied.

By

Deputy Clerk

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

VICTOR A. MOTLEY,

Petitioner

v. Civil Action Number 3:01CV41

JOSEPH A. CONDO and

VIRGINIA STATE BAR,

Respondents.

FINAL ORDER

This matter is before the Court on a petition for writ of habeas corpus filed by petitioner. He seeks relief from an Order entered by the Virginia Supreme Court in Record No. 000417 which purportedly affirmed an order of the Virginia State Bar Disciplinary Board upholding findings upon which the petitioner's license to practice law was suspended for eighteen months.(1) Petitioner does not allege that he is "in custody in violation of the Constitution or laws or treaties of the United States" as required in order to seek relief pursuant to 28 U.S.C. Sec. 2254. Petitioner claims only that the decision of the Virginia Supreme Court is "a restraint on petitioner's liberty as defined in Jones v. Cunningham, 371 U.S. 236(1963)." Recently, the United States Supreme Court

stated that although the writ of habeas corpus demands "application of basic constitutional doctrines of fairness (citing Jones v. Cunningham)," it also stated that the writ "demands...conviction by a court of competent jurisdiction (citations omitted)." Lonchar v. Thomas, 517 U.S. 314,322 (1996). Since the petitioner does not allege a conviction by a court of competent jurisdiction, this petition is DISMISSED FOR LACK OF JURISDICTION.

Petitioner is advised that he has the right to appeal the decision of the Court. Should he wish to do so, written notice of appeal must be filed with the Clerk of the Court within thirty (30) days of the date of entry hereof. Failure to file a timely notice of appeal may result in the right to appeal.

It is so ORDERED.

Let the Clerk send a copy of this Order to all counsel of record and to Mr. Motley.

Jan. 23, 2001 _____

DATE SENIOR U.S. DISTRICT JUDGE

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1. Two similar petitions were filed on the same date, each also seeking relief from orders issued by the Virginia Supreme Court, both of which issued a public reprimand, in Records

Number 000392 and Number 001306. Those petitions were assigned Civil action Numbers 3:01CV040 and 3:01CV042 respectively.